## REMARKS

Claims 1-10, 12-13, 15-24, 26-27, 29-39, 41-42, 44-54, 56-57, and 59-64 are pending in this application. By this Response, claims 1, 16, 26, 30, and 45 are amended to clarify the definition of a transaction, which is a sequence of a plurality of transaction steps which together are treated as a single unit. Support for the inclusion of this definition may be found in the present specification at least in Figures 3A, 3B, 4A, and 4B and the corresponding description which describes the columns of these figures as representing the individual transaction steps of a transaction implemented by a script as well as describe 313 and 413 as representing whether a transaction as a whole is complete, i.e. all of the transaction steps are completed (see paragraph [0047] of the corresponding publication 2003/0145080, for example). Furthermore, Applicants are providing attached hereto a definition obtained from the website searchcio.techtarget.com referencing the definition from www.whatis.com which shows the general knowledge of one of ordinary skill in the art with regard to the definition of the term "transaction."

Independent claims 1, 16, 26, 30, and 45 are further amended to define the transaction steps as representing a user of a client computing device's interaction with one or more applications of a server computing device. This is further supported by Figures 3A-4B and corresponding description in the specification.

Claims 30 and 45 are further amended to remove "means-plus-function" language from the claims to address the 35 U.S.C. § 112, second paragraph rejection first raised in the Examiner's Answer mailed May 27, 2010. Dependent claims 31-34, 37-39, 41-42, 44, 46-54, 56-57, 59 and 64 are amended to be consistent with the amendments to claims 30 and 45 and to further remove any means-plus-function recitations in these claims. Support for the amendments to these claims to replace means-plus-function language with specific elements may be found at least in Figure 2 and its corresponding description, and with regard to the computer program product elements, paragraph [0094] of the corresponding publication 2003/0145080. No new matter has been added by any of the above amendments to the specification or claims. Reconsideration of the claims in view of the above amendments and the following remarks is respectfully requested.

## I. Request to Reopen Prosecution

In accordance with the options presented to Applicants on pages 15-16 of the Examiner's Answer, Applicants hereby request that prosecution of the present application be reopened in accordance with 37 CFR 41.39(b)(1) since a new grounds of rejection was introduced in the Examiner's Answer. Since the present amendment is relevant to the new grounds of rejection, Applicants respectfully request entry and consideration of this Amendment in accordance with 37 CFR 41.39(b)(1).

## II. Request to Make Special and Request for Examiner Telephone Interview

Applicants hereby request that the present application be considered "Special" and that the Examiner's supervisor personally intervene in the prosecution of this application in an effort to terminate prosecution with allowance of the application in accordance with MPEP § 707.02 which reads:

> The supervisory patent examiners should impress their assistants with the fact that the shortest path to the final disposition of an application is by finding the best references on the first search and carefully applying them.
>
> ***The supervisory patent examiners are expected to personally check on the pendency of every application which is up for the third or subsequent Office action with a view to finally concluding its prosecution.***
>
> Any application that has been ***pending five years*** should be ***carefully studied by the supervisory patent examiner and every effort >should be< made to terminate its prosecution. In order to accomplish this result, the application is to be considered "special" by the examiner.***
>
> (emphasis added)

The present application has been pending for over five years. Accordingly, Applicants respectfully request that the Supervisory Examiner review the prosecution history of this application, the amendments and remarks made throughout the prosecution of this application and included herein, and either allow the application or contact Applicant's

undersigned representative and provide suggested claim amendments that will place this application in condition for allowance.

It is believed that the issues currently pending in this application may be resolved by way of an Examiner Interview with the Examiner and his supervisor. Accordingly, Applicants respectfully request that the Examiner and his supervisor schedule a telephone interview with Applicants' undersigned representative to discuss a resolution of the application towards a final disposition of the application. Applicants have set forth amendments above which Applicants believe to place the application in condition for allowance in view of the Examiner's rejections and arguments set forth in the Examiner's Answer. However, Applicants are willing to consider other suggestions by the Examiner that would place the case in condition for allowance in the Examiner's view. Thus, Applicants respectfully request that the Examiner and his supervisor provide Applicants with an opportunity to discuss the merits of this case.

## III. Response to Examiner's Arguments in Examiner's Answer

Applicants arguments presented in the Appeal Brief filed August 10, 2006 and the Amended Appeal Brief filed October 27, 2006 are considered to still apply to the current state of the claims and are thus, set forth hereafter. In this section of this Amendment, Applicants will address the specific arguments presented by the Examiner on pages 11-15 of the Examiner's Answer.

In response to Applicants' argument with regard to the terms transaction and transaction step, the Examiner alleges that transactions can be a set of commands or each step can be a unit with related events. Applicants respectfully disagree with this interpretation.

The present specifically clearly defines a transaction as having a plurality of transaction steps that together constitute a single unit, i.e. the transaction. This is recognized by the Examiner in the first paragraph on page 12 of the Examiner's Answer where the Examiner correctly states that each transaction consists of a plurality of steps. Moreover, as shown in the definition of the term "transaction" set forth by the www.whatis.com website (see attached), those of ordinary skill in the art regard a

transaction as a sequence of information exchange and related work that is treated as a unit for the purposes of satisfying a request. Thus, both the present application and the general knowledge of those of ordinary skill in the art both support the definition of the term "transaction" to be a sequence of transaction steps. In order to further emphasize this definition being applicable to the transaction recited in the claims, the definition has been added to the claims by reciting that the transaction is a sequence of the plurality of transaction steps which together are treated as a single unit.

The Examiner goes on to allege that any part of the "hierarchy" described in Chandra may be considered a "transaction." Specifically, the Examiner alleges that because Chandra's test protocols can include a plurality of test scripts (column 7, lines 41-43) and that a script can be broken down into steps and sub-steps, that somehow this teaches the specific transactions, transaction steps, and reports having individual transaction step entries having performance data for the particular transaction step. To the contrary, nowhere in Chandra is there any teaching or technical rationale to consider anything in the Chandra test protocols to be transactions or steps of a transaction, as it has been defined by Applicants, the definition now being integrated into the claims by this Amendment. In fact, the Examiner agrees that Chandra does not teach a transaction as it has been defined by Applicants (see Examiner's Answer, page 13, where it is stated "Chandra's definition of transaction does not match the application's definition of transaction").

Moreover, even if what the Examiner alleges were true and the scripts in Chandra could be interpreted to be a single transaction comprised of a plurality of transaction steps, *arguendo*, the reporting done by Chandra is done on a connection basis. That is, Chandra specifically teaches that the timing measurements are with regard to performance measurements of throughput and transaction rate, i.e. numbers of transactions handled per unit of time over a particular connection (column 8, lines 48-57). Chandra does not gather performance information for individual steps of a script and provide an entry in reports for each step in the script. To the contrary, in Chandra, the scripts simply operate to collect throughput and transaction rate measurements for a connection and then report this information back to a console node that generates statistics. Nowhere in Chandra is there any ability to collect individual performance data

from a plurality of probes for each transaction step of a transaction executed by a script such that a report may be generated that comprises a plurality of transaction step entries, one entry for each transaction step of a script. Chandra is only concerned with the performance measurements of the connection, not the transaction.

Rather than actually finding the specific features recited in the claims, the Examiner is engaged in an exercise of making tenuous interpretations of hierarchies of a script including steps and sub-steps and alleging that each of these steps and sub-steps could be part of a transaction and then one could gather data for each of these transaction steps. However, there is no teaching or suggestion in Chandra to do such. The only teachings or suggestions are necessarily found in Applicants' own disclosure. To the contrary, the Examiner is trying to make the reference fit the mold of the present claims rather than determining if the claimed features are actually taught by the reference. This is clear in that the Examiner is having to explain a convoluted interpretation of hierarchies of functionality and scripts and functions within scripts, etc., and trying to equate these to features found in the claims rather than simply finding a reference that teaches generating a report where the report has individual entries for individual transaction steps of a transaction and their corresponding performance data.

This desire to disregard the actual teachings of Chandra and instead force Chandra to fit within the mold of the present claims is further evident in statements by the Examiner with regard to not using the definitions of the terms set forth in the application (Examiner's Answer, page 12, second paragraph), looking at the hierarchical association "regardless of how the term of transaction is used" in the Chandra reference (Examiner's Answer, page 12, bottom of the page), and the like. The reality is that Chandra teaches that the performance data collected by Chandra is with regard to throughput and transaction rate, i.e. on the whole transaction level with regard to the number of transactions processed per unit time. This is because the measurements made by Chandra are concerned with the performance of the connection, not the performance of the transaction or individual steps of the transaction.

The Examiner alleges that "one of ordinary skill in the art cannot simply zero in on the term transaction and force upon it the application's definition." This is absolutely contrary to all doctrines and tenets of patent law. It has long been held that Applicants

are permitted to be their own lexicographer and that the application's description is intended to be a dictionary for the terms used in the claims. Thus, the reality is that the claims must be read in light of the present application's description and that the terms in the claims must be given definitions consistent with the description in the application. Furthermore, terms not specifically defined in the specification may be given a definition corresponding to that known to those of ordinary skill in the art. Moreover, Applicants may limit the definition of terms through prosecution history estoppel by specifically setting forth the definition of terms in Applicants' arguments which will then be used to interpret the terms set forth in the claims.

All of this combines to essentially make the point that Applicants may set forth the definition of the terms in the claims and the Examiner must interpret the claims in light of such definitions. Applicants have done so here both by showing the consistency of the definition of the term "transaction" known to those of ordinary skill in the art and the usage of that term throughout the present specification. Moreover, Applicants have set forth the definition of the term "transaction" both by Applicants' arguments and by explicitly including the definition in the claims themselves. Thus, the Examiner must interpret the claims in light of Applicants' definition of the term "transaction" and cannot simply dismiss this definition because it would cause the Examiner's found reference to not be applicable to the present claims.

The Examiner goes on to allege that Chandra teaches a variety of reports on connections and sub-steps of connections and thus, the features of the reports having individual entries of transaction steps of a transaction are allegedly taught by Chandra (see Examiner's Answer, page 14). Applicants respectfully disagree. While Chandra may teach different types of reports, none of these reports include individual transaction step entries with performance data for the individual transaction steps of a script. To the contrary, the Examiner himself says that the reports are periodic reports "by various connections, script, and transaction count." None of these are reports having individual transaction step entries for each transaction step in a script and their corresponding performance data. To the contrary, these are all connection level reports because Chandra is concerned with the performance of a connection as a whole, not the performance of a transaction. One cannot determine the performance data for individual

transaction steps within a transaction from the reports in Chandra because all that Chandra reports is the throughput and transaction rates of connections.

Lastly, the Examiner alleges that the layout of data output is not functional. While the layout may or may not be functional, the operation for laying out the data in the particular format specified is functional. In other words, the claims specifying the format of the reports further define the manner by which the reports are generated, in addition to providing functionality to the user as previously argued. Thus, these claims do further define the functionality of the claimed invention by specifying the manner by which the reports are generated. Thus, these features should be given weight during examination.

## IV. Rejection under 35 U.S.C. § 112, Second Paragraph (New Grounds of Rejection)

The Examiner's Answer sets forth a new grounds of rejection of claims 30-59 under 35 U.S.C. § 112, second paragraph. This rejection is respectfully traversed.

By this Response, claims 30-59 are amended to remove the "means-plus-function" language that is the basis for the Examiner's holding of these claims to be allegedly indefinite. As a result, this rejection is rendered moot. Accordingly, Applicants respectfully request withdrawal of the rejection of claims 30-59 under 35 U.S.C. § 112, second paragraph.

## V. Rejection under 35 U.S.C. § 103(a) based on Hershey and Chandra

The Final Office Action rejects claims 1, 3-7, 9, 12, 16, 17, 19-21, 23, 26, 29, 30, 32-36, 38, 41, 45, 47-51, 53, and 56 under 35 U.S.C. § 103(a) as being allegedly unpatentable over Hershey et al. (U.S. Patent No. 5,793,753) in view of Chandra et al. (U.S. Patent No. 6,397,359). This rejection is respectfully traversed.

Claim 1, which is representative of the other rejected independent claims 30 and 45 with regard to similarly recited subject matter, reads as follows:

1. A method for communicating performance information, said method comprising:

configuring a plurality of probes to execute a ***script for performing a transaction*** between a client computing device and a server computing device, wherein the script comprises ***a plurality of transaction steps for performing the transaction, and wherein the transaction is a sequence of the plurality of transaction steps, representing an interaction between a user of a client computing device and one or more applications running on the server computing device, which together are treated as a single unit***;

collecting data from the plurality of probes, including at least one local probe and at least one remote probe, ***wherein the collected data is data representative of a performance of the transaction steps of the script*** executed by the plurality of probes; and

reporting said data, wherein reporting said data comprises generating ***a report that comprises a plurality of transaction step entries, one entry for each transaction step of the script, having associated performance data collected from one or more of the at least one local probe or the at least one remote probe***. (emphasis added)

Neither Hershey nor Chandra, either alone or in combination, teach or suggest the features of claim 1 emphasized above. Hershey is directed to a system for management of a telecommunications network. Hershey teaches the use of a programmable probe that is connected to a network device for monitoring data transfer activity on the network and collecting selected data relating to one or more relevant functions. The probe may be programmed to effect collection of data relative to a selected function parameter. The collected function parameter data may be received from the probe and stored. A data output device may be provided for outputting the parameter data to a user. Furthermore, Hershey teaches comparing the parameter data to a reference value and providing an indication when the parameter data deviates from the reference value by more than a preselected threshold (column 2, lines 11-55).

Hershey, however, does not teach programming a probe with a script for performing a transaction between a client device and a server device, wherein the script includes a plurality of transaction steps. To the contrary, Hershey only teaches being able to program the probe to collect data for particular functions. Hershey does not provide any script for performing a transaction between a client device and a server that includes a

plurality of transaction steps. Thus, Hershey also does not teach collecting data that is representative of a performance of the transaction steps of the script.

Moreover, Hershey does not teach reporting the collected data, wherein reporting the collected data comprises generating a report that comprises a plurality of transaction step entries, one entry for each transaction step of the script, having associated performance data collected from one or more of the at least one local probe or the at least one remote probe. While Hershey states that parameter data may be output to the user via an output device, Hershey provides no details as to how such an output is provided. Specifically, Hershey does not teach that such an output comprises a report having a plurality of transaction step entries, one entry for each transaction step of a script that is used to program the probes, and associated performance data collected from the probes. The Final Office Action admits that Hershey does not teach these features (see Final Office Action, page 3, paragraph 9). However, the Final Office Action alleges that these features are taught by Chandra. Applicants respectfully disagree.

Chandra is directed to a mechanism for scheduled measurement of connections between end nodes. The end nodes are provided with test protocols that have test scripts. These test scripts are used to measure the performance of the connection between the end nodes without requiring any involvement of application software which may or may not be present on the end nodes (column 3, lines 16-50). The system of Chandra may make measurements of the connection performance at scheduled times and may store this information until a request for a report is received, or an automatic scheduled report is performed. The reports are provided to a console node which generates statistics for the connection based on the measured performance.

Chandra is not concerned with measuring the performance of transactional steps of a script but rather merely the performance of the connection as a whole. Thus, Chandra does not teach or even suggest to measure the performance of individual transactional steps of a script and provide a report having entries for each of the individual transactional steps.

The only mention of "transactions" in Chandra is in the Background of the Invention section where Chandra discusses a known system management tool (see column 1, lines 54-66). As discussed in this Background section of Chandra, one known

system management tool involves actively emulating application transactions. Agents at the end user locations monitor actual sample application transactions to measure performance of the application operating over the network environment. While Chandra teaches that such system management tools exist, Chandra takes an opposite approach by concerning itself with only the measurements of the connections between end nodes without requiring any involvement of application software which may or may not be present on the end nodes (see column 3, lines 20-23, "...without requiring any involvement of application software...", and column 3, lines 39-41, "...without regard to the end user application programs available at particular endpoints..."). While the Background in Chandra mentions using synthetic transactions to monitor performance of applications, the monitoring is done on a transaction level. There is no mention in Chandra of monitoring the performance of individual steps in the transactions or providing a report having entries for each transaction step of a transaction in a script.

Moreover, other than the above mentioned portion of the Background section in Chandra, the only other mention of transactions in Chandra is that the performance measure may include transaction rates. Thus, yet again, the performance measure is at a transaction level rather than at a level corresponding to individual transaction steps of a transaction. Hence, even if Chandra does perform measurements of connection performance with regard to transactions, the measurements are not done with regard to individual transaction steps such that a report having entries for each transaction step of a transaction in a script is provided. Thus, contrary to the allegations raised by the Final Office Action, Chandra actually does not teach or even suggest to measure performance of transactional steps but instead to only measure the performance of a connection between end nodes, which at most may be performed on a transaction basis, not individual transaction steps.

The Final Office Action alleges that Chandra teaches the collection of data for reporting at column 8, lines 22-35, column 13, lines 10-11, column 16, line 20 to column 18, line 35, and column 3, lines 45-47. Column 8, lines 22-35 of Chandra teaches that the endpoint node pairs generate timing records and calculate performance test results from these timing records and provide these performance test results to a console node. The console node may then analyze the performance test results. Column 13, lines 10-11 of

Chandra teaches that the results may be stored until an appropriate time for a batch or event driven reporting of results to the control node.

Column 16, line 20 to column 18, line 35 provides a number of tables describing connection analysis results and periodic report results. It is important to note that nowhere in these tables is there anything regarding providing a report that has entries for each transaction step of a transaction in a script. To the contrary, the only mention of transactions in these tables is the transaction count which is a count of a number of transactions. There are no entries in any of the "results" tables of Chandra regarding individual transaction steps of a transaction in a script.

Column 3, lines 45-47 of Chandra teaches that network test results may encompass an end-to-end view and may further break network performance analysis down into its components, such as client, server, application, and network time, to potentially quickly and accurately isolate problems. While this section talks about breaking down results into various parts of the network, i.e. client, server, application, etc., there is no teaching or even suggestion in this portion of Chandra regarding providing a report having entries for each of the transaction steps of a transaction in a script.

Thus, neither Hershey nor Chandra, either alone or in combination, teach or suggest that collected data is data representative of a performance of transaction steps of a transaction in a script executed by a plurality of probes. Moreover, neither Hershey nor Chandra, either alone or in combination, teach or suggest reporting the data, wherein by generating a report that comprises a plurality of transaction step entries, one entry for each transaction step of the script, having associated performance data collected from one or more of at least one local probe or at least one remote probe. Therefore, even if Hershey were combinable with Chandra, and one were somehow motivated to attempt such a combination, *arguendo*, the result of the combination still would not result in these features of independent claims 1, 30 and 45 being taught or suggested.

Regarding independent claims 16 and 26, these claims recite similar features to that emphasized above. For example, claim 16 recites:

16. A method for communicating performance information, said method comprising:

configuring at least one probe to execute ***a script for performing a transaction*** between a client computing device and a server computing device, ***wherein the script comprises a plurality of transaction steps for performing the transaction, and wherein the transaction is a sequence of the plurality of transaction steps, representing an interaction between a user of a client computing device and one or more applications running on the server computing device, which together are treated as a single unit***;

receiving data from the at least one probe, wherein the collected data is data representative of ***a performance of the transaction steps of the script*** executed by the at least one probe;

comparing said data with at least one threshold value derived from a service level agreement; and

reporting results of said comparing, wherein the reported results comprise ***a plurality of transaction step entries, one entry for each transaction step of the script, having associated performance data collected from the at least one probe***.

(emphasis added)

Claim 26 recites similar features. Thus, claims 16 and 26 are distinguished over the Hershey and Chandra references for similar reasons as set forth above with regard to independent claims 1, 30, and 45.

At least by virtue of their dependency on claims 1, 16, 26, 30, and 45, respectively, neither Hershey nor Chandra, either alone or in combination, teach or suggest the features of dependent claims 3-7, 9, 12, 17, 19-21, 23, 29, 32-36, 38, 41, 47-51, 53, and 56.

In response to the above arguments, the Examiner, in the Advisory Office Action mailed May 26, 2006 states:

> The examiner has determined that the steps within a given test script, i.e. a connection within a set of connections, is functionally equivalent to a transaction as currently defined by the instant applications, as further indicated by the transaction count associated with the results of the test script as broken down into test components, i.e. per connection analysis. From this, it is clear that Chandra teaches the development and execution of a script composed of multiple steps, each step thus comprising a transaction, and further that Chandra teaches a breakdown of information by test script portion/transaction result (i.e. timing record per

connection analysis) to the stored and/or reported, as shown in the Final Office Action.

Essentially the Examiner's response is that because Chandra teaches a test script, transaction counts, and the ability to break down results into components of a network, that this obviates the claimed invention. Applicants respectfully submit that the Examiner is reading in limitations of the claimed invention into the teachings of Chandra having first had benefit of Applicants' own disclosure.

Nowhere in Chandra is there any teaching to break down performance measurements into individual transaction steps of a script. All that Chandra teaches is that network test results may encompass an end-to-end view and may further break network performance analysis down into its components, such as client, server, application, and network time, to potentially quickly and accurately isolate problems in the network (see column 3, lines 44-47). Thus, while performance measurements may be broken down into individual network components, there is no teaching or suggestion to correlate such performance measurements to individual transaction steps of a script or to generate a report having entries for individual transaction steps. From the performance measurements of Chandra, all that can be determined is where latencies in a connection between two endpoints may be present and thus, a potential problem. It is not possible to determine in Chandra what the performance of individual transaction steps of a script is, let alone generate a report having individual transaction step entries with corresponding performance data collected from one or more of the at least one local probe or the at least one remote probe, as recited in claims 1, 30, and 45.

## VI. Rejection under 35 U.S.C. § 103(a) based on Hershey, Chandra and Schwaller

The Final Office Action rejects claims 2, 8, 10, 13, 15, 18, 22, 24, 27, 31, 37, 39, 42, 44, 46, 52, 54, 57, and 59 under 35 U.S.C. § 103(a) as being allegedly unpatentable over Hershey and Chandra, and further in view of Schwaller et al. (U.S. Patent No. 6,901,442). This rejection is respectfully traversed.

Claims 2, 8, 10, 13, 15, 18, 22, 24, 27, 31, 37, 39, 42, 44, 46, 52, 54, 57, and 59 are dependent claims that are dependent upon respective ones of independent claims 1, 30 and 45. Thus, at least by virtue of their dependency, these claims are not taught or suggested by the alleged combination of Hershey and Chandra for the reasons set forth above in section I. Moreover, Schwaller does not provide for the deficiencies noted above with regard to Hershey and Chandra.

Schwaller is directed to a mechanism for filtering of network performance data. Nowhere in Schwaller is there any teaching or suggestion to program a probe with a script that comprises a plurality of transaction steps for performing a transaction between a client device and a server device. Schwaller merely states that the data may be collected in response to active testing of the network or passive data collection (column 7, lines 55-65). Schwaller does not provide any teaching or even suggestion regarding a script such as that recited in independent claims 1, 30, and 45.

Furthermore, Schwaller does not teach or suggest a report such as that recited in claims 1, 30, and 45. Schwaller does show various outputs in Figures 9A-13. However, in none of these outputs is there any report such as that recited in claims 1, 30, and 45. That is, none of the outputs of Schwaller show a report that comprises a plurality of transaction step entries, one entry for each transaction step of a script, having associated performance data collected from one or more of the at least one local probe or the at least one remote probe. To the contrary, the outputs generated by Schwaller may provide performance data for a plurality of applications (see Figure 9A of Schwaller), but there is no indication of any transaction steps of a script that is used to program a probe in any of the outputs of Schwaller.

In fact, there is no ability in Schwaller to match any of the data output by Schwaller to transaction steps of a script used to program a probe. Schwaller does provide an output of a distribution of response times for transactions (see Figure 10.C.1), however, there is no indication of the individual transaction steps for the transactions or the corresponding performance data for such transaction steps in any of the outputs provided by Schwaller, similar to Chandra discussed above. Thus, Schwaller, like Hershey and Chandra, does not teach or suggest the features of independent claims 1, 30, and 45. Since none of these references teach or suggest these features, any alleged

combination of the references, even if such a combination were possible and one of ordinary skill in the art were somehow motivated to make such a combination, would not result in these features being taught or suggested.

In view of the above, Applicants respectfully submit that neither Hershey, Chandra, nor Schwaller, either alone or in combination, teach or suggest the features of independent claims 1, 30, and 45. At least by virtue of their dependency on claims 1, 30, and 45, respectively, neither Hershey, Chandra, nor Schwaller, either alone or in combination, teach or suggest the features of dependent claims 2, 8, 10, 13, 15, 18, 22, 24, 27, 31, 37, 39, 42, 44, 46, 52, 54, 57, and 59. Accordingly, Applicants respectfully request withdrawal of the rejection of claims 2, 8, 10, 13, 15, 18, 22, 24, 27, 31, 37, 39, 42, 44, 46, 52, 54, 57, and 59 under 35 U.S.C. § 103(a).

## VII. Rejection under 35 U.S.C. § 103(a) based on Hershey, Chandra, Schwaller, and Wlaschin

The Final Office Action rejects claims 60-64 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Hershey, Chandra, Schwaller, and further in view of Wlaschin et al. (U.S. Patent no. 6,163,775). This rejection is respectfully traversed.

Claims 60-64 are dependent from respective ones of independent claims 1, 30, and 45. The deficiencies of Hershey, Chandra, and Schwaller with regard to claims 1, 30, and 45 have been discussed above. Wlaschin does not provide for these deficiencies. Wlaschin is cited as allegedly teaching using tables to report data. Wlaschin does not teach or suggest reports that have entries for a plurality of transaction steps of a transaction in a script that is provided to local and/or remote probes, as recited in claims 1, 30, and 45. Thus, even if Wlaschin were combinable with the other references, the addition of Wlaschin would not result in the features of the independent claims discussed above being taught or suggested.

In addition to the above, neither Hershey, Chandra, Schwaller, nor Wlaschin, either alone or in combination, teach or suggest the specific features recited in claims 60-64. Nowhere in any of the references is there any teaching to output a report to a user, the output of the report comprising a table having at least one row for each execution of

the script and columns ordered according to an order of transaction steps in the script. The Final Office Action alleges that Hershey teaches reporting results to a user, Chandra teaches a table report, and Wlaschin teaches a method and system of utilizing tables to report data. The Final Office Action alleges that the other differences between the claimed subject matter and the cited references is found only in "non-functional data stored on the article of manufacture" which does not distinguish the claimed invention from the prior art in terms of patentability.

Applicants respectfully submit that the configuration of the output generated by the present invention as recited in claims 60-64 does impart functionality and thus, is not merely non-functional descriptive material as alleged by the Examiner. With the output generated in the manner set forth in claims 60-64, a clearly ordered series of transaction steps corresponding to the order in the script is displayed along with their corresponding performance information. From such an output, a user may follow the order of transaction steps to determine where in the chain of steps a problem or performance degradation may have occurred and may take appropriate action. If a user determines that the total time for the script to execute is unsatisfactory, the user may traverse each of the transaction steps in order to determine where the greatest degradation in performance is felt and what that affect may have been on later transaction steps further down in the chain of transaction steps. Thus, the configuration of the output as recited in claims 60-64 does impart functionality and is an important feature of the claimed invention as recited in claims 60-64 that is not taught or even suggested by the cited references because none of the cited references teach or even suggest the monitoring of performance on a transactional step basis. To the contrary, none of the tables or even displays of the cited references show any individual entries for transaction steps of a script, let alone an ordered arrangement as set forth in claims 60-64. This is further evidence that the cited references do not, and are not capable of, generating a report that includes entries for each transaction step in a script. Thus, in addition to being dependent upon their respective independent claims, claims 60-64 recite additional features that are not taught or suggested by the alleged combination of references.

## VIII. Conclusion

It is respectfully urged that the subject application is in condition for allowance. The Examiner is invited to call the undersigned at the below-listed telephone number if in the opinion of the Examiner such a telephone conference would expedite or aid the prosecution and examination of this application.

Respectfully submitted,

DATE: July 27, 2010

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## transaction

DEFINITION - In computer programming, a transaction usually means a sequence of information exchange and related work (such as database updating) that is treated as a unit for the purposes of satisfying a request and for ensuring database integrity. For a transaction to be completed end database changes to made permenent, a transaction has to be completed in its entirety. A typical transaction is a catalog merchandise order phoned in by a customer and entered into a computer by a customer representative. The order transaction involves checking an inventory database, confirming that the item is available, placing the order, and confirming that the order has been placed and the expected time of shipment. If we view this as a single transaction, then all of the steps must be completed before the transaction is successful and the database is actually changed to reflect the new order. If something happens before the transaction is successfully completed, any changes to the database must be kept track of so that they can be undone.

A program that manages or oversees the sequence of events that are part of a transaction is sometimes called a *transaction monitor*. Transactions are supported by Structured Query Language, the standard database user and programming interface. When a transaction completes successfully, database changes are said to be *committed*; when a transaction does not complete, changes are *rolled back*. In IBM's Customer Information Control System product, a transaction is a unit of application data processing that results from a particular type of transaction request. In CICS, an instance of a particular transaction request by a computer operator or user is called a *task*.

Less frequently and in other computer contexts, a transaction may have a different meaning. For example, in IBM mainframe operating system batch processing, a transaction is a *job* or a *job step*.

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